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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91210604
Party	Defendant Fathead, LLC
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Submission	Answer
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Date	06/13/2013
Attachments	Answer.pdf(23376 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Climbing Rock Enterprises, Inc

Opposer,

v.

Fathead, LLC

Applicant.

Opposition No. 91210604

Serial No. 85/754,863

The Trademark Company
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ANSWER AND AFFIRMATIVE DEFENSES TO NOTICE OF OPPOSITION

Applicant Fathead LLC (“Fathead”), by its attorneys Honigman Miller Schwartz and Cohn LLP, for its Answer to the Notice of Opposition (“Notice”) filed by Opposer Climbing Rock Enterprises, Inc. (“Climbing Rock”), says:

1. Fathead has insufficient information with which to admit or deny this allegation.
2. Fathead has insufficient information with which to admit or deny this allegation.
3. Fathead has insufficient information with which to admit or deny this allegation.
4. Admitted.
5. Admitted in part, the application was filed as an intent-to-use application. Denied as to the mark being in use in commerce.
6. Denied.

7. Denied
8. Denied.
9. Denied.
10. Denied.
11. Denied.

Wherefore, Fathead respectfully requests that this Opposition be dismissed with prejudice, that judgment be entered in Fathead's favor, and that the application at issue be allowed.

Affirmative Defenses

1. The Notice fails to state a claim on which relief may be granted.
2. Climbing Rock lacks standing to bring this Opposition.
3. Climbing Rock has no rights in any trademark that is confusingly similar with the mark for which Fathead seeks registration (the "Fathead Mark").
4. There is no likelihood of confusion between the Fathead Mark and any mark owned Climbing Rock.
5. The Fathead Mark and any mark owned by Climbing Rock are used in dissimilar marketing channels.
6. There has been no actual confusion in the relevant marketplace between the Fathead Mark and any mark owned by Climbing Rock.
7. Climbing Rock's claims are barred by waiver, estoppel and/or laches.
8. Any mark owned by Climbing Rock is weak and not entitled to a broad scope of protection.
9. Fathead reserves the right to assert additional Affirmative Defenses as this case progresses.

HONIGMAN MILLER SCHWARTZ AND COHN LLP

Dated: June 13, 2013

By: /s/ Julie E. Reitz

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CERTIFICATE OF FILING AND SERVICE

I certify that on June 13, 2013, I filed a copy of the foregoing document with the Board via the ESTTA system, and served a copy on opposing counsel by U.S. Mail at the following address:

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By: /s/ Julie E. Reitz